

JERSEY / JUDGMENT

AG -v- Carver [2015] JRC 112 (22 May 2015)

[2015] JRC 112

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JUDGMENT

THE commissioner: 1. The defendant stands to be sentenced for one count of grave and criminal assault at a nightclub in which the victim sustained serious injuries to his jaw, teeth, and mouth necessitating extensive dental treatment which is ongoing. The defendant and the victim were strangers to each other and it would seem that the victim did verbally provoke the defendant who, feeling threatened, struck him with one blow with his left hand in which he was holding a glass. The Crown accepts that the use of the glass was inadvertent; the defendant did not intend to use it as a weapon but he did intend to strike the victim. 2. The defendant is a man of good character and was 21 at the time of the offence, for both of which he is entitled to credit. The social enquiry report concludes that he does not engage in violent behaviour generally and that this offence was out of character. He is assessed at having a pro-social lifestyle and to be at a low risk of reconviction and a Community Service Order is recommended. The Crown has moved on balance for a non-custodial disposal but suggest that this is a case where a Compensation Order would be appropriate. 3. This was a serious assault in which painful injuries have been caused to the victim but we are persuaded by Advocate Dale, on balance, that the mitigation here is sufficient to justify a non-custodial sentence. We take into account; firstly, the defendant's youth; secondly, his early guilty plea and cooperation with the police and we note he has offered a day to meet with the victim by way of restorative justice; thirdly, the fact that the defendant was subjected to a degree of provocation and was in fear of being assaulted and fourthly, his good character and employment record. He is currently in the process of qualifying as an arborist. Furthermore a custodial sentence would mean the loss of his employment and potentially his career prospects and his ability to maintain his young child and pay compensation to the victim. 4. In terms of compensation, there is a certain lack of clarity as to whether all of the dental work done to the victim is attributable to this assault but, taking into account the defendant's means and the circumstances generally, we think that a fair sum to be awarded to the victim is £3,000. 5. You are therefore sentenced as follows:- 180 hours' community service, which is the equivalent to 12 months' imprisonment; secondly you will pay the victim compensation of £3,000 as to £1,500 in 7 days and, as to the balance, at the rate of at least £50 per week. There will be a sentence in default of payment of that compensation of 4 months' imprisonment. We impose an Exclusion Order excluding you from 1 st , 2 nd , 4 th , 5 th and 7 th category licensed premises excluding the Multiplex Cinema, the Jersey Arts Centre, Jersey Airport, the Ferry Terminal at Elizabeth Harbour and the Opera House for a period of 12 months' from today's date. Authorities Harrison

v AG

[2004] JLR 111 . AG v Taylor

[1994] JLR N-11d. AG v Holmes and Parry 2001/83. AG v Porter

[2013] JRC 092A . AG v Viveiros

[2014] JRC 162A . Whelan on Aspects of Sentencing in the Superior Courts of Jersey 3rd Edition.
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